

Bombay's Pavement-Dwellers Continuing Torment

Meera Bapat

The Bombay Municipal Corporation has resorted to a set of callous tactics in their endeavour to prevent pavement settlements: structures are demolished, personal belongings taken away and the pavement is dug up to create plant beds.

IN July 1985, the Supreme Court delivered a perplexing judgment on the case involving pavement-dwellers. A writ petition (No 4610-4612 of 1981) had been filed in the Supreme Court challenging the large-scale demolitions by the Bombay Municipal Corporation in 1981 of huts on pavements in central areas of Bombay. The judgment on the writ petition endorses the argument made on behalf of pavement-dwellers that if they are evicted from their dwellings they will be deprived of their livelihood and therefore their right to life will be violated, as the right livelihood is included in the right to life conferred by Article 21. And yet the judgment permits the removal of pavement-dwellings without directing the municipal corporation to provide a viable alternative for the people so that their right to life is upheld. The judgment argues that the Constitution does not put an absolute embargo on the deprivation of life or personal liberty; in the instant case the law which allows deprivation of the right conferred by Article 21 is the Bombay Municipal Corporation Act, 1988, and relevant sections in it which empower the municipal authorities to clear encroachments on pavements. The judgment goes on to state that those pavement-dwellers who were censured by the state government in 1976 should be given, though *not* as a condition precedent to their removal, alternative pitches (in a distant suburb of Bombay). The Supreme Court also directs the municipal corporation to withhold demolitions until the end of the monsoon (October 31) to save pavement-dwellers additional suffering that may be caused by being rendered homeless in the rain.

It was feared that large-scale demolitions of huts erected on pavements in different parts of Bombay would begin soon after the stipulated date. This did not occur (owing as much to intensive work of mobilising pavement-dwellers done by voluntary organisations as to a play of diverse forces in local politics). What has

been happening instead with frequent regularity is the demolition of a few huts at a time along short stretches of roads and streets. These demolitions have rarely been reported in the press.

While conducting demolitions, the municipal corporation has not been following the recommendations made by the Supreme Court for making them humane, by avoiding them during monsoons and by providing alternative pitches to the ousted families. (Whether or not the location suggested by the Supreme Court can be a viable place of residence for these poor families leading a hand-to-mouth existence is a separate issue. Only in one case was an alternative location provided by the municipal corporation in an outlying area.) Pavement-dwellers claim that some of the demolitions have been violent, that on several occasions municipal staff has confiscated their personal belongings and have subsequently been sold off to others. In most cases the ousted families have been able to return to the same pavement and erect their shelters all over again. In the recent past, however, to prevent people from reoccupying the cleared pavements, municipal workers have dug them up and constructed brick plant beds. In one case, the ousted people lived for 18 months by the side of the pavement where they had lived previously, in order to keep their claim on the pavement, and then gradually made room for themselves around the empty plant beds.

Pavement-dwellers live under the fear of being made homeless anytime; this insecurity pervades their life. At the same time, the callous behaviour of municipal personnel during demolitions makes the experience extremely distressing. A Task Force set up in 1983 by the Planning Commission has acknowledged that slum/squatter settlements are the products of poverty and social injustice [Shelter for the Poor and Slum Improvement Task Forces on Housing and Urban Development, Planning Commission, government

of India 1983, p xxiv]. This must be even more true of pavement settlements. And yet pavement-dwellers appear to be treated more as criminals than as victims.

Take the case of a recent demolition of a small pavement settlement. In early June this year all the huts along a short stretch of road in central Bombay were pulled down. Most of these families are migrants from Bihar and more than 70 per cent of them have been in Bombay for over 10 years, living on pavements all along. Many of them have faced several demolitions (survey conducted by the Society for Promotion of Area Resource Centre (SPARC) in 1985 and 1992).

They were served a notice on May 20, asking them to remove their huts within 48 hours failing which they would have to face the consequences. The residents expected to face a demolition within a month braced themselves to confront the event. Taking a cue from earlier instances when photographs of personal belongings being carted away by the municipal staff were used as evidence to secure their return, a camera was procured and kept ready. One morning vans were seen parked outside their huts. On enquiry however they were assured that there would be no demolitions. This happened on two successive mornings. Men and women, after ascertaining that the municipal staff did not intend to remove their huts, went to work. On the third morning the demolition squad struck. Within a couple of hours all the 87 huts on that stretch of the road were pulled down. Some of the residents who were present tried to hide their belongings in adjoining buildings, but not much could be saved from being confiscated and taken away. One of the residents took photographs of trucks being loaded with their personal belongings. Subsequently a list was made of goods confiscated from each family. Within a few hours of the demolition of huts and clearing of the pavement, two parallel rows of beds for plants were constructed on the pavement, leaving a narrow strip between them for pedestrians to walk on. The 'illegal' obstruction to pedestrian movement caused by huts was removed only to be replaced 'officially' by beds for plants.

The pavement-dwellers whose personal belongings were taken away and not returned, filed a petition in the Bombay High Court seeking their return. The municipal staff who conducted the demolition denied having taken away personal belongings. This claim could not be challenged as, unfortunately for the pavement-

dweller, the photographs which could have provided the crucial evidence, had not come out because the person who took the pictures was not conversant with using a camera. It was then a case of the pavement-dwellers' word against that of the municipal staff. The municipal officers were asked by the judge to produce an affidavit in court stating their stand after which the case was dismissed. (Subsequently, the municipal corporation has contradicted its claim of not having taken away any personal belongings of the ousted families. A voluntary agency, SPARC, working with the pavement-dwellers made a representation to the governor of Maharashtra on June 8 regarding the loss of belongings of the pavement-dwellers. In response to the governor's letter concerning this question, an additional municipal commissioner conducted the necessary enquiry. A copy of his letter dated July 22 was sent to SPARC. His letter states: "The municipal employees took possession of the utensils and other household belongings, but later on, they handed over the same to the slum-dwellers." The pavement-dwellers, however, challenge his claim. They point out that if their belongings had been returned the municipal corporation would have a record to that effect with their signatures/thumb impressions. They claim that the municipal authorities would not be able to produce such a document as their belongings have not been returned.)

In the absence of crucial evidence to support their claim the pavement-dwellers could not prove their case in court. Following an earlier demolition (carried out on November 3, 1988), however, those victims (who live close to the site of the recent demolition) had successfully obtained a court order directing the municipal corporation to return their belongings. The municipal officials failed to return their belongings and later, in fact, denied having taken away any personal belongings. Following this, the pavement-dwellers filed a case in the Bombay High Court against the municipal corporation for contempt of court (Writ Petition No 3381 of 1988). In the judgment delivered on April 28, 1989, the high court directed the municipal corporation to pay the people compensation (to cover the value of the goods lost) and costs. This is a rare case of legal success for pavement-dwellers. The judgment delivered by justice Sujata Manohar is revealing in that it breaks some commonly held myths about pavement-dwellers (or the poor generally). The judge is very critical of the fact that the municipal personnel deliberately misled the people and lulled them into a sense of security, that they did not permit people to take away their

belongings but instead allowed them to be misappropriated by municipal staff. Above all, she has cast doubts on the honesty of the municipal officers and workers. The judgment states "The evidence given by them is far from satisfactory. They have prevaricated on important details. Sometimes they were even unable to answer simple questions. They also tried not to produce all the relevant documents. An attempt was made also to bring incomplete files. There is also some doubt about the endorsements made on one of the important documents."

On the other hand the judge has acknowledged the 'simple straightforward' manner in which the pavement-dwellers gave evidence. "Each one of them has given special details pertaining to the demolition which lends authenticity to what they have to state. They have also very frankly stated that some of the hutment-dwellers were able to salvage some of the belongings, though not all... They have not exaggerated their losses or inflated the value of their meagre belongings. Their stories tally in all material particulars. There is no evidence of any coaching. In my view, their evidence inspires confidence. None of them, although they are simple, illiterate people, have been shaken in cross-examination..." In contrast

to this judgment the recent court order dismissing the pavement-dwellers' case has shown confidence in the integrity of the municipal staff. From accounts of the proceedings in the court, the pavement-dwellers seem to have been at a disadvantage on account of their lower credibility emanating from commonly held biases against them.

Given the situation of the poor and deprived, fighting a legal case is highly demanding on their resources in every sense, and unaided, they are likely to be unequal to the task. What justice Sujata Manohar has to state in this respect is significant. "In fact, looking to the circumstances in which the petitioners are placed, ordinarily, but for the help which they have received from SPARC and the lawyers who ably conducted their case in the spirit of public service, they could never have successfully fought the 1st respondent (The Municipal Corporation of Greater Bombay) for the return of their belongings... The petitioners have pointed out that fighting this kind of litigation to vindicate their right is an intolerable burden for hutment-dwellers" At the time of the demolition this June, the pavement-dwellers had to fend for themselves (as several members of the voluntary organisations working with them were out of

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Bombay on other assignments). Because of their meagre resources and lack of wherewithal to produce adequate evidence, they could not fight their case successfully. This happened in spite of popular education efforts by the voluntary agencies working with them for over seven years. Vulnerability of the poor against the power of the state emerges as a matter of serious concern in this case also.

The account of the recent demolition given by the pavement-dwellers shows that it was carried out in as insensitive and brutal a manner as the demolitions three years earlier—the manner of which invited serious criticism from justice Sujata Manohar. In spite of the strictures passed by the judge, it is clear that the municipal authorities have not found it necessary to lay down proper procedures and checks. As justice Sujata Manohar observes in her judgment “without any accountability...the power can be misused as it is apparent from the instances narrated relating to previous demolitions”.

Whether brutal or humanely conducted, a basic question is what does the municipal corporation achieve by demolishing pavement-dwellings without providing alternative pitches at viable locations? For the cleared pavements rarely remain free of encroachment. In the absence of any other viable alternative, the ousted families in most cases manage to return to and occupy the same pavement and gradually build their huts again. What demolitions do achieve, however, is the torment and terror of pavement-dwellers and the depletion of their already meagre and strained resources. Not only do they have to replace damaged materials (be it bamboos, polythene sheets, mats or rough timber planks) for rebuilding huts, but repurchase household items and work tools confiscated during demolitions. The economic and psychological damage caused by demolitions can be crippling. In the process, the already poor families, leading a hand-to-mouth existence, become further impoverished.

Pavement-dwellers do not wish to live on pavements. They are compelled by their circumstances to live in appalling conditions in what is an apology for shelter. In spite of their abysmal poverty, some pavement-dwellers have started saving money for housing with a nationalised bank and also with Housing Development Finance Corporation. For instance, as per SPARC records in the pavement settlement which was demolished recently, each family has on an average saved about Rs 1,160 since 1986. The sum may not be large, but it represents earnest efforts on their part to contribute towards a solution of their shelter problem. They have participated in a shelter training programme

(organised by SPARC). A group of women pavement-dwellers has been helping some slum-dwellers who are at present engaged in building their own tenements on a piece of land leased to them by the government. The Housing and Urban Development Corporation has agreed in principle to grant pavement-dwellers housing loans. The actual disbursing of loans, however, is contingent on getting land from the state government and according to SPARC negotiations have been going on since mid-1986 but without success so far. In this situation, to demolish their huts

without offering a viable alternative and causing hardship and economic loss seems totally unwarranted. It only sets them back in their endeavour to find a secure place to live with dignity. Contrast the response of the government to pavement-dwellers with the reports of brazen attempts by judges, bureaucrats, and politicians to speedily secure land for housing for themselves at prime locations in Bombay by bending and bypassing rules, and the travesty of social justice is complete. There need be no room left for any illusion that the poor have a chance.

More of the Same

M Shatrugna

The imposition of Vijayabhaskara Reddy as chief minister and the installation of a ministry predictably dominated by the forward castes will not help to solve any of the major problems facing Andhra Pradesh.

THE nomination of Kotla Vijayabhaskara Reddy as the chief minister brings to a close the political uncertainty created in the wake of the severe strictures passed by the high court against N Janardhan Reddy on the capitation fees issue. This is the first time in 30 years in Andhra Pradesh that a chief minister with a clear majority in the assembly has had to step down on popular demand. Former chief minister Neelam Sanjeeva Reddy had resigned over the road transport nationalisation case in the late 50s after the Supreme Court had passed strictures against him. The allegation against Sanjeeva Reddy by his political opponents was that he had issued government orders (GOs) nationalising bus routes in Kurnool district with questionable intent and bias. The Supreme Court had upheld the charge. But while Sanjeeva Reddy had accepted the Supreme Court verdict and stepped down immediately, it took several weeks for Janardhan Reddy to do the same, showing the degenerating Congress(I) commitment to democratic values and culture over the years.

Following the all-India pattern, the Congress(I) in the state is divided on caste, regional and personal lines. Overtly it has four groups. While the erstwhile ruling group is headed by Janardhan Reddy whose nominees have received the lion's share of positions in the new ministry, a second faction is headed by Y S Rajasekhara Reddy, the ebullient MP from Cuddapah, who had been a strong contender for the chief ministership. The third

faction has been reared by the Rajasthan governor M Channa Reddy and a fourth is represented by a motley crowd of sons of the former chief ministers and disgruntled individual Congressmen. Vijayabhaskara Reddy who himself had neither a following of his own nor a group for that matter, appears to have heeded the advice of Janardhan Reddy in the composition of the cabinet. While bowing to the wishes of Janardhan Reddy, he has ignored the 'dissident' groups barring D Srinivas from the backward classes. Neither the nominees of Channa Reddy nor Y S Rajasekhara Reddy have found a berth in the cabinet. Political light-weights like J Geetha Reddy and D Srinivas belonging to the Channa Reddy faction have been included only to humour the aging governor. The non-recognition of the Y S Rajasekhara Reddy group indicates that the more experienced Kotla is confident of handling his political rival, who happens to hail from the same area. The move has infuriated the followers of Rajasekhara Reddy so much that they vent their spleen in Cuddapah by attacking public transport vehicles and other public and private undertakings to register their protest against the 'injustice' meted out to their leader.

As anticipated, the upper castes have cornered a majority of the posts in the new cabinet with the important portfolios going to them. In the 32-member ministry, 19 belong to the forward castes with the Reddys getting the lion's share of 10